

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIATRACYE BENARD WASHINGTON,  
Plaintiff,

v.

J. SERRATO, et al.,  
Defendants.

Case No. 22-cv-05832 BLF (PR)

**ORDER GRANTING EXTENSION  
OF TIME; DENYING MOTION FOR  
COURT ORDER; DIRECTING  
DEFENDANTS TO RESPOND TO  
PLAINTIFF'S MOTION TO  
COMPEL; TERMINATING  
MOTION FOR CLARIFICATION**

(Docket Nos. 34, 35, 37)

Plaintiff, a California inmate, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against prison staff at Salinas Valley State Prison (“SVSP”), where he was formerly housed. On May 3, 2023, the Court found the complaint stated cognizable claims of excessive force and conspiracy to commit an assault, and ordered the matter served on Defendants. Dkt. No. 9. On January 29, 2024, Defendants E. Guijarro, B. Akins, A. Serrato, and C. Diaz filed a motion for summary judgment on the merits as well on the grounds that Plaintiff failed to exhaust administrative remedies for claims against Defendant Guijarro, and they are entitled to qualified immunity. Dkt. No. 21. Plaintiff was granted an extension of time until May 24, 2024, to file opposition. Dkt. No. 30.

On April 29, 2024, Plaintiff filed an opposition addressing Defendants’ exhaustion defense, Dkt. No. 33, along with a motion to compel Defendants to comply with discovery,

1 asserting that he has attempted to meet and confer with no response from Defendants. Dkt.  
2 No. 31. Plaintiff filed another “opposition” addressing Defendants’ other summary  
3 judgment arguments on May 6, 2024, which contains incomplete exhibits in support. Dkt.  
4 No. 33. Along with that paper, Plaintiff filed a request for extension of time to acquire  
5 additional documents in support of his opposition, Dkt. No. 34, and a request for a court  
6 order to the Warden, to allow him access to his records, Dkt. No. 35. Most recently, on  
7 May 9, 2024, Plaintiff submitted some medical records in support of his opposition. Dkt.  
8 No. 36.

9 On May 10, 2024, Defendants filed a motion requesting clarification of the briefing  
10 schedule, seeking one due date to file a single reply to Plaintiff’s multiple opposition  
11 papers. Dkt. No. 36. However, in light of Plaintiff’s claim that Defendants are not  
12 responding to his various discovery requests, the Court will require Defendants to file a  
13 response to Plaintiff’s motion to compel before deeming his opposition submitted or  
14 setting a reply deadline. Defendants’ response must include an explanation for their failure  
15 to comply with Plaintiff’s request to meet and confer.

16 Defendants shall file a response to Plaintiff’s motion to compel, Dkt. No. 31, **no**  
17 **later than fourteen (14) days** from the date this order is filed. Defendants are also  
18 ordered to respond to Plaintiff’s request for discovery in his motion seeking a court order  
19 against the Warden. Dkt. No. 35. If Defendants have possession or access to the  
20 documents Plaintiff seeks in his motion, they must produce them to Plaintiff in the same  
21 time as their response is due.

22 Plaintiff currently has until May 24, 2024, to submit his opposition papers. In light  
23 of pending discovery issues, his request for extension of time is **GRANTED**. Dkt. No. 34.  
24 Plaintiff shall file his final supporting documents in support **no later than June 7, 2024**.

25 Defendants shall file their reply brief **no later than fourteen (14) days** after  
26 Plaintiff’s final supporting documents are filed.

27 Plaintiff’s motion for a court order is **DENIED** because the Warden is not a party to  
28

1 this action. Dkt. No. 35.

2 This order terminates Docket Nos. 34, 35, and 37.

3 **IT IS SO ORDERED.**

4 **Dated: \_\_May 13, 2024\_\_**

  
BETH LABSON FREEMAN  
United States District Judge

United States District Court  
Northern District of California

25 Order Granting EOT; Denying Court Order; Directing Defs to Respond  
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